

Issue Summary: HB 545 – Residential Property Sales

Problem Statement:

A current law set to take effect January 1, 2011, would require sellers of homes in Florida's coastal areas to disclose the home's windstorm mitigation rating to homebuyers, which could cause home sales in all coastal areas of Florida to be delayed, discouraged, or prevented. The statute is a potential impediment to home sales in Florida because it puts an additional burden on the seller.

Background:

HB 545 repeals a statute that requires sellers of homes located in Florida's coastal areas, the windborne debris region, to disclose a home's windstorm mitigation rating to home buyers. The statute has not yet taken effect but will take effect January 1, 2011, if the veto stands.

Pursuant to current law, in November 2007, the Financial Services Commission (i.e. the Governor and Cabinet) adopted a uniform home grading scale to grade the ability of a home to withstand the wind load from a tropical storm or hurricane. The rating system scores homes on a scale of 1 to 100 and was recommended by the Office of Insurance Regulation based on input from the Home Structure Rating System Advisory Board.

In 2008, the Legislature passed a law that established a two-part phase-in of a requirement that sellers of homes located in the state's coastal area, the wind borne debris region, disclose the home's windstorm mitigation rating based on the grading scale. The first part of the phase-in was to begin January 2010, and would have required sellers of homes insured by Citizens Property Insurance Corporation for \$500,000 or more to disclose the home's windstorm mitigation rating to buyers. However, in 2009, before it took effect, this disclosure requirement was repealed; and the second part of the phase-in, which was repealed by HB 545, requires sellers of any home in the windborne debris region to disclose the home's rating starting January 1, 2011.

Governor's Veto

In his veto message for HB 545, the Governor stated the grade on the quality of a home's hurricane resistant protections "can be tremendously helpful for Floridians seeking the right home for their needs" and "there is no compelling reason to repeal this consumer-friendly law."

Effect of Override:

If the veto stands, all home sales located along Florida's coast are impacted, as all coastal property in Florida is in the wind borne debris region. For example, all or almost all homes in the following counties are included in the wind borne debris region and are affected: Escambia, Santa Rosa, Bay, Gulf, Franklin, Pinellas, Sarasota, Lee, Collier, Monroe, Miami-Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, and Brevard.

Allowing the mitigation disclosure statute to take effect will not improve Florida's housing market. The statute is a potential impediment to home sales in Florida because it puts an additional burden on the seller by adding a step to the home sale process. Florida's housing market is already in disarray, and requiring home sellers to incur an additional cost to sell a home and jump through another hoop in the home selling process would likely further impair and undermine the Florida real estate market, making it harder for the market to recover.

Furthermore, lack of statutory parameters for disclosure could lead to home sellers and buyers receiving inaccurate and unreliable home mitigation inspections and ratings without protection from, or recourse against, unscrupulous mitigation inspectors.

Finally, overriding the veto does not affect the current inspection and mitigation process homeowners utilize to protect their homes and qualify for property insurance discounts. That process is entirely separate and distinct from the requirements of the current law repealed by HB 545.